



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 22, 1996

Ms. Amy L. Whitt
Assistant City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR96-0589

Dear Ms. Whitt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID #38701.

The City of Lubbock Police Department (the "department") received an open records request for a certified copy of the department's "Procedural Manual." You assert that the Procedural Manual is excepted from required public disclosure under section 552.108 of the Government Code.

Section 552.108(b) excepts from disclosure "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution" This section excepts from disclosure the internal records and notations of law enforcement agencies and prosecutors when their release would unduly interfere with law enforcement and crime prevention. Open Records Decision No. 531 (1989) at 2 (quoting *Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977)). When section 552.108(b) is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how releasing the information would unduly interfere with law enforcement. Open Records Decision No. 434 (1986) at 3. Whether disclosure of particular records will unduly interfere with crime prevention must be decided on a case-by-case basis. Attorney General Opinion MW-381 (1981). You claim generally that the entire manual is excepted from public disclosure because its release

would often place criminal offenders at an advantage in encounters with police officers. For example, knowing the procedures that police use in conducting searches may allow certain individuals

to have an advantage in concealing contraband. Also, the advantage in knowing the policy on the detection of crime and the arrest policy may allow criminals to escape. Release of this information could ultimately endanger the public safety and may leave the officers vulnerable when they are confronting criminals.

However, during a brief review of the manual, we identified many portions of the manual that do not come under the protection of section 552.108. For example, one portion of the manual deals with the department's policy on sexual harassment. We do not believe that release of this information could unduly interfere with law enforcement or crime prevention. You did not identify the portions of the manual that the city could safely release to the requestor without threatening effective law enforcement.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, or explain how that exception applies, the exception is ordinarily waived unless the information is deemed confidential under the act. See Gov't. Code § 552.301(b)(4) (governmental body that requests attorney general decision must label that copy of the specific information to indicate which exceptions apply to which parts of the copy); see also Attorney General Opinion JM-672 (1987). Furthermore, it is well established that where one of the act's exceptions is clearly not applicable to all of the information in a requested record, a general claim that the exception applies to the entire record does not comport with the Open Records Act's procedural requirements. See Open Records Decision No. 150 (1977) at 2. We therefore conclude that you have not met your burden under the Open Records Act to establish the extent to which section 552.108 applies to the manual's contents. The manual is therefore presumed to be public information and must be released to the requestor in its entirety unless you can demonstrate compelling reasons for withholding specific portions of the manual.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Todd Reese", with a long horizontal flourish extending to the right.

Todd Reese
Assistant Attorney General
Open Records Division

RTR/rho

Ref.: ID# 38701

Enclosures: Submitted documents

cc: Mr. Don R. Richards
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(w/o enclosures)